

EXHIBIT S

**To Declaration of Micah West in Support of
Motion for Preliminary Injunction
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Alabama cities agree to stop jailing people too poor to post bond

Topics: *And Justice for Some* (<https://www.revealnews.org/topic/and-justice-for-some/>) / *Inequality* (<https://www.revealnews.org/topic/inequality/>)

By *Amy Julia Harris* (<https://www.revealnews.org/author/amy-julia-harris/>) / December 8, 2016



Courts in nearly 50 Alabama cities have stopped jailing people charged with misdemeanors simply because they can't afford to post bond – a significant policy shift in a state that repeatedly has come under fire for legal practices that punish the poor.

Prior to the reforms, dozens of municipal courts in Alabama required defendants to pay a fixed bond amount for minor infractions such as loitering, littering, and driving with a suspended license, regardless of their financial circumstances. Those who could pay were immediately released. Those who couldn't often would sit in jail for days or weeks until their cases were resolved.

That's what happened to Christy Dawn Varden. She was arrested in January 2015 outside a Wal-Mart in Clanton and charged with shoplifting and three other misdemeanors, according to a federal class-action lawsuit (<https://www.documentcloud.org/documents/3232867-VardenComplaint.html>) filed by the nonprofit group Equal Justice Under Law against the city of Clanton. Varden was taken to jail and told that she would be released if she paid a \$2,000 bond – \$500 for each misdemeanor charge.

Varden, a 41-year-old mother of two, couldn't pay. She had severe physical and mental illnesses that prevented her from working, according to the lawsuit. She lived on \$200 a month in food stamps and had no other income. Because she couldn't afford to post bond, she could have sat in jail for a week, waiting for her first court appearance. However, after learning about the lawsuit, the city released her from jail the day after her arrest.

Less than two months later, Varden died. But as a result of the case, in September 2015, a federal judge ordered the city to change its bail procedures.

“Bail schemes such as the one formerly enforced in the municipal court result in the unnecessary pretrial detention of people whom our system of justice presumes to be innocent,” Judge Myron H. Thompson wrote in his opinion (<http://equaljusticeunderlaw.org/wp/wp-content/uploads/2015/04/Opinion-Granting-Declaratory-Judgment.pdf>). “Justice that is blind to poverty and indiscriminately forces defendants to pay for their physical liberty is no justice at all.”

Jailing poor people for their inability to post bond has been the subject of lawsuits and legislative reforms around the country (<https://www.revealnews.org/article/new-mexico-vote-should-people-be-stuck-in-jail-because-theyre-poor-2/>). Recent lawsuits

have challenged bail systems in California, Georgia, Illinois, Kansas, Louisiana, Mississippi and Texas.

The U.S. Justice Department under President Barack Obama has come out strongly against fixed bail practices, writing in an amicus brief (<https://www.documentcloud.org/documents/3031807-Walker-v-City-of-Calhoun-US-Amicus-Brief.html>) this summer that incarcerating “indigent individuals before trial solely because of their inability to pay for their release violates the Fourteenth Amendment” and “result in the unnecessary incarceration of numerous individuals who are presumed innocent.”

According to the nonprofit Prison Policy Initiative (<http://www.prisonpolicy.org/reports/incomejails.html>), 70 percent of the nearly 650,000 people in local jails around the country are being held before they are convicted of any crime.

In 2011, U.S. Attorney General Eric Holder said taxpayers spent over \$9 billion in jail costs alone to keep people in pretrial detention. Legal experts say the human cost is also significant: People can lose their jobs, homes and custody of their children while incarcerated before their trials.

After the Clanton lawsuit in Alabama, the Southern Poverty Law Center and a nonprofit group called the Civil Rights Corps (<http://www.civilrightscorps.org/>) reviewed the bail practices of municipal courts around the state and saw that many had similar fixed bail policies that they said were unconstitutional. The groups sent letters warning dozens of Alabama municipal courts (https://www.splcenter.org/sites/default/files/alabama_cities_bail_reform_letters.pdf) to change their bail schedules and found that most were receptive to reform. Today, nearly 50 of these municipal courts have changed their policies to allow people to be released on an unsecured bond – a written promise to appear in court or else pay a fine – or consider a person’s financial circumstances before imposing a bond.

Hoover, a city of 85,000 people just south of Birmingham, reformed its bail system in June. Since then, the number of municipal court defendants in jail has dropped by nearly 90 percent, according to Susan Fuqua, director of the Hoover Municipal Court.

“It’s a different mindset for a court,” she said. “I think more and more people are seeing that there is a better way of doing this, of making sure that we can be more focused on that person’s life and not creating a hardship.”

The city of Mobile also changed its bail practices earlier this year and cut the number of people in jail on misdemeanor offenses by roughly half, according to the Southern Poverty Law Center.

“Before Mobile changed its bail practices, many people were sitting in jail for up to 30 days because they could not afford to post bail, and many of those people would never even have received a jail sentence,” said Nathan Emmorey, chief municipal court administrator for Mobile. “Our bail practice reforms ensure that poor people or others will not sit behind bars unnecessarily.”

Emmorey said the court hasn’t had any issues with public safety or people missing their court dates as a result of the changes.

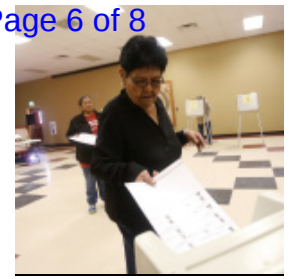
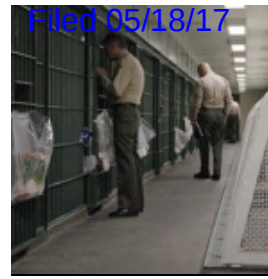
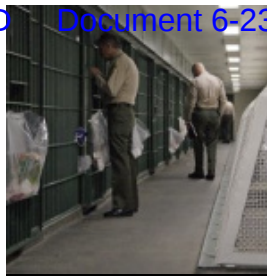
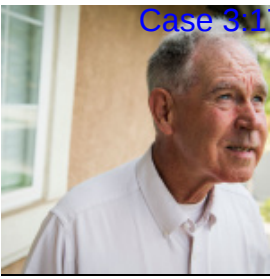
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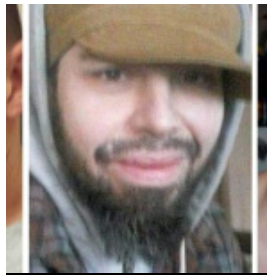
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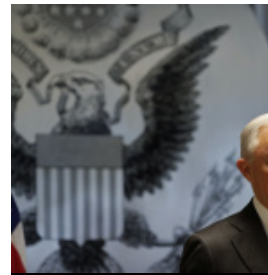
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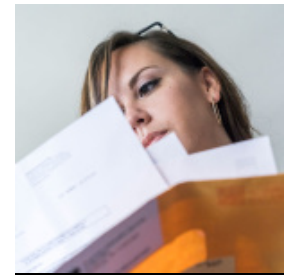
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